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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,986	07/03/2006	Tetsuji Ogawa	03500.107618	4054
5514 7590 04/22/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER PINKNEY, DAWAYNE	
			ART UNIT 2873	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/596,986	Applicant(s) OGAWA ET AL.	
	Examiner DAWAYNE A. PINKNEY	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/06/2006 and 10/02/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 07/06/2006 and 10/02/2007 has been considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi et al. (US 2002/0059301).

Regarding **claim 1**, Hayashi discloses, an ophthalmologic image recording apparatus, comprising:

a first acquiring means (Paragraph 0071, lines 1-7, and 20 of Fig. 1) for acquiring an image information including a sensed image of an eye to be examined and an image forming time information relating to a time at which an image of the eye to be examined is formed (Paragraph 0087, lines 1-3, Paragraph 0090, lines 3-10, Paragraph 0108, lines 1-5, and Figs. 3 and 4);

a second acquiring means (1 of Fig. 1) for acquiring an image sensing correlation information correlating with image sensing condition for sensing the image of the eye to be examined, said image sensing correlation information including at least a sensing time information relating to a time at which the image of the eye to be examined is sensed (Paragraph 0086, lines 1-11, Paragraph 0097, lines 1-7, Paragraph 0110, lines 1-9, and Figs. 3 and 4);

control means for correlating the image information of the eye to be examined acquired by said first acquiring means, with the image sensing correlation information acquired by said second acquiring means (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0110, lines 1-9, and 2 of Fig. 1); and

recording means for recording the correlated image information and image sensing correlation information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0110, lines 1-9, and 2 of Fig. 1),

wherein the control means correlates the image information with the image sensing correlation information, on the basis of the image forming time information and the image sensing correlation information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0092, lines 1-9, Paragraph 0097, lines 1-7, Paragraph 0108, lines 1-5, Paragraph 0110, lines 1-9, and 2 of Fig. 1).

Regarding **claim 2**, Hayashi discloses, an ophthalmologic image recording apparatus according to claim 1, wherein the control means correlates the image information with the image sensing correlation information, on the basis of the time information acquired by the second acquiring means and the image forming time information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0092, lines 1-

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9, Paragraph 0097, lines 1-7, Paragraph 0108, lines 1-5, Paragraph 0110, lines 1-9, and 2 of Fig. 1).

Regarding **claim 6**, Hayashi discloses, an ophthalmologic image recording method, comprising:

a first acquiring step of acquiring an image information including a sensed image of an eye to be examined and an image forming time information relating to a time at which an image of the eye to be examined is formed (Paragraph 0071, lines 1-7, Paragraph 0087, lines 1-3, Paragraph 0090, lines 3-10, Paragraph 0108, lines 1-5, 20 of Fig. 1, and Figs. 3 and 4);;

a second acquiring step of acquiring an image sensing correlation information correlating with image sensing condition for sensing the image of the eye to be examined, said image sensing correlation information including at least a sensing time information relating to a time at which the image of the eye to be examined is sensed (Paragraph 0086, lines 1-11, Paragraph 0097, lines 1-7, Paragraph 0110, lines 1-9, and Figs. 3 and 4);

control step of correlating the image information of the eye to be examined acquired by said first acquiring means, with the image sensing correlation information acquired by said second acquiring means (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0110, lines 1-9, and 2 of Fig. 1); and

recording step of recording the correlated image information and image sensing correlation information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0110, lines 1-9, and 2 of Fig. 1),

wherein in the control step, the image information is correlated with the image sensing correlation information, on the basis of the image forming time information and the image

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sensing correlation information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0092, lines 1-9, Paragraph 0097, lines 1-7, Paragraph 0108, lines 1-5, Paragraph 0110, lines 1-9, and 2 of Fig. 1).

Regarding **claim 7**, Hayashi discloses, an ophthalmologic image recording program for correlating an image of an eye to be examined with an image sensing correlation information, the program causing a computer to function as:

a first acquiring means (Paragraph 0071, lines 1-7, and 20 of Fig. 1) for acquiring an image information including a sensed image of an eye to be examined and an image forming time information relating to a time at which an image of the eye to be examined is formed (Paragraph 0087, lines 1-3, Paragraph 0090, lines 3-10, Paragraph 0108, lines 1-5, and Figs. 3 and 4);

a second acquiring means (1 of Fig. 1) for acquiring an image sensing correlation information correlating with image sensing condition for sensing the image of the eye to be examined, said image sensing correlation information including at least a sensing time information relating to a time at which the image of the eye to be examined is sensed (Paragraph 0086, lines 1-11, Paragraph 0097, lines 1-7, Paragraph 0110, lines 1-9, and Figs. 3 and 4);

control means for correlating the image information of the eye to be examined acquired by said first acquiring means, with the image sensing correlation information acquired by said second acquiring means (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0110, lines 1-9, and 2 of Fig. 1); and

recording means for recording the correlated image information and image sensing correlation information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0110, lines 1-9, and 2 of Fig. 1),

wherein the control means correlates the image information with the image sensing correlation information, on the basis of the image forming time information and the image sensing correlation information (Paragraph 0069, lines 1-4, Paragraph 0070, lines 1-9, Paragraph 0086, lines 1-11, Paragraph 0090, lines 3-10, Paragraph 0092, lines 1-9, Paragraph 0097, lines 1-7, Paragraph 0108, lines 1-5, Paragraph 0110, lines 1-9, and 2 of Fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (US 2002/0059301) as applied to claim 1 above.

Hayashi remains as applied to **claim 1 above**.

Regarding **claim 3**, Hayashi does not explicitly disclose the control means calculates a difference between the time information and the image forming time information, and comprises alarm means for generating an alarm when a calculation result obtained by the calculation exceeds a predetermined time period. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the control means calculates a difference between the time information and the image forming time information, and comprises

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alarm means for generating an alarm when a calculation result obtained by the calculation exceeds a predetermined time period to achieve the predictable results of alerting a user of the ophthalmic image recording apparatus that the device has been improperly used, and make the device more efficient.

Regarding **claim 4**, Hayashi does not explicitly disclose the control means measures an elapsed time from a time at which one of said first acquiring means and said second acquiring means acquire the information to a time at which output from another is obtained, and comprises alarm means for generating an alarm when the elapsed time exceeds a predetermined time period. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the control means measures an elapsed time from a time at which one of said first acquiring means and said second acquiring means acquire the information to a time at which output from another is obtained, and comprises alarm means for generating an alarm when the elapsed time exceeds a predetermined time period to achieve the predictable results of alerting a user of the ophthalmic image recording apparatus that the device has been improperly used, and make the device more efficient.

Regarding **claim 5**, Hayashi does not explicitly disclose the control means monitors an acquiring order of the information in said first acquiring means and second acquiring means, and alarm means for generating an alarm when a monitoring result is different from a predetermined information acquiring pattern. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the control means monitors an acquiring order of the information in said first acquiring means and second acquiring means, and alarm means for generating an alarm when a monitoring result is different from a predetermined information

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acquiring pattern to achieve the predictable results of alerting a user of the ophthalmic image recording apparatus that the device has been improperly used, and make the device more efficient.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Itoh (US 2001/0028439) teaches an ophthalmic image recording apparatus having a first acquiring means, a second acquiring means, a control means, and a recording means.

Ichikawa et al. (US 6, 773, 109) teaches an ophthalmic image recording apparatus having a first acquiring means, a second acquiring means, a control means, and a recording means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAWAYNE A. PINKNEY whose telephone number is (571)270-1305. The examiner can normally be reached on Monday-Thurs. 8 a.m.- 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott J. Sugarman/
Primary Examiner, Art Unit 2873

/DaWayne A Pinkney/
Examiner, Art Unit 2873
04/02/2008